

**Town of North Smithfield Planning Board
Kendall Dean School, 83 Green Street
Thursday, November 18, 2010, 7:00 PM**

The Chair called the meeting to order at 7:05 pm.

1. Roll Call

Present: Chair Scott Gibbs, Alex Biliouris, Dean Naylor, Stephen Vowels, Joe Cardello, Art Bassett. Absent: Gene Simone. Also present was Town Planner Bob Ericson.

The Chair opened the meeting by stating that over the past two years that he has spent on the Planning Board, he has been impressed with the level of professionalism and civility displayed by the Board and by the public. He stated that both the public and the Board deserves and expects high standards in the way business is conducted. He is glad to see that the Board and the public have been able to proceed without any attacking or demeaning language.

2. Approval of Minutes: October 21, 2010

Mr. Cardello made a motion to approve the minutes of October 21, 2010. Mr. Naylor seconded the motion, with all in favor.

3. Major Subdivision Master Plan--Informational Meeting

Applicant: Gerard and Christine Berthelette

Location: Mendon Road and Middle Street, Assessor's Plat 3, Lot 286

Zoning: RU (Urban Residential)

Mr. Ericson disclosed that he was included in a class action by the Kelly law firm against the Town of Lincoln for excessive building permit costs. He opted out of the class in order to avoid any perception of a conflict. Attorney Eric Brainsky (from the Kelly law firm) was present for the applicant.

Mr. Ericson updated the Board on the status of the application. Some discrepancies in the Master Plan to be addressed are: 1) there is a house on Plat 3 Lot 291, not indicated on plan, 2) the owners of the lot are Leszek and Elzbeita Przybylko, not Gerard and Christine M. Berthelette as indicated on the plan, the Plat 3, Lot 68 owner is Karen McGarrigle, not Alan O. Cormier as indicated on the plan. Alan Cormier does not exist on the owner history for this lot, and 3) at southern border lot 70, where lots with access to right-of-way are listed, add lot 70 to right-of-way for lots. Mr. Ericson stated that the number of discrepancies found raise questions about the actual survey date.

Mr. Brainsky thanked Mr. Ericson for pointing out the discrepancies earlier in the week. He submitted 11" x 17" copies of the corrected

plans to the Board members, and gave 2 large copies of the accurate plans to Mr. Ericson. He continued by reviewing the application for the Board. The applicant appeared before the Board in September with a pre-application. The same plan, with a little more detail, is being presented tonight. The Berthelettes own 3.6 acres and have owned the land for 15 years. The parcel is an odd shape, with a finger on the westerly side of the lot. There is an access easement to the neighboring property. The applicant is seeking to subdivide the property. The land is big enough that it could handle six lots, but the applicant is seeking to subdivide the land into two lots. The preexisting shape of the lot does not leave enough frontage on proposed lot 1. They will need a 62' frontage variance. They are proposing a private gravel drive to service the neighbor and Lot 1. They will construct a cul-de-sac or whatever is deemed necessary to provide access for emergency vehicles. Lot 2 will be fully conforming to the regulations. The applicant is also looking to bring sewers into the property, as well as the neighboring pre-existing landlocked property.

The applicant is seeking a recommendation to the Zoning Board on the frontage variance. They also seek waivers from the Town Master Plan checklist. A Major Plan usually has 5 lots and public improvements. Other than the variance required, this application is for a two-lot subdivisions with no road. The waivers sought are for the 2-mile contour overview map and the existing resources and site analysis map. They are also seeking Master Plan approval.

Marc Nyberg stated that the plan is fairly simple. Lot 2 will be 1.8 acres with the required frontage on Middle Street. He pointed out the proposed Lot 1, which is 1.7 acres. He also pointed out the access easement and the sewer connection. Mr. Ericson informed the Board that the 25' radius turnaround is not required for a common driveway, but that the fire marshal was pleased with this portion of the plan.

Mr. Cardello clarified that while the applicant has stated that the land could be subdivided into 6 lots, he did not want the record to imply that the Board agreed or disagreed with that statement. Mr. Brainsky stated that he understands that point and stated that there are no plans designed to show 6 lots on the property.

Mr. Bassett asked about the proposed driveway width and the width of the easement. Mr. Brainsky stated that the driveway will be 12'-15' and the easement is 30'-34'.

The Chair opened the hearing to the public at 7:30 pm.

Lucille Blouin of 92 Mendon Road (Lot 70) first stated that she does use the private right-of-way to access the back of her house for wood delivery. She stated that she had no problem with the application and said that the Berthelettes have been wonderful neighbors, but she did ask that there be a 40' setback from the rear of her house to whatever will be built on the new lot. The Chair stated that this is not up to the

Board, but that it can be worked out with the applicant. Mr. Ericson stated that typically there is a voluntary agreement to establish a setback of approximately 40' with an evergreen separation or screening. He stated that the issue will probably be addressed by the Zoning Board.

Mr. Cardello asked if granting the subdivision will create a flag lot, and if so, is a variance required. Mr. Brainsky stated that there is nothing in the comprehensive plan to prevent it. He stated that it is a pre-existing shape, but they are making the oddly-shaped lot smaller and creating a new nice lot. Mr. Ericson stated that Town regulations state that it is "preferred" to not create lots in this shape, but it does not say "shall not" create them.

Mr. Vowels asked at which point in the application the Sewer Commission should be engaged. Mr. Ericson stated that the issue is not germane to a Master Plan decision. The Sewer Commission is an independent body that will make the decision on the requirement for the property owners to tie in to the sewer system.

Mr. Ericson asked Mr. Nyberg to state on the record that only the changes pointed out in the bulleted email list (see above 3 plan discrepancies) were made to the plans. Mr. Nyberg stated that they have been made, and that those changes were the only ones made. Mr. Ericson also stated that the Town has received no deed documentation on the easement to Lot 70. The abutter stated that

they have this documentation and it will be submitted. He also stated that he would prefer to have the waiver request structured in writing, but that the Board can vote on the request if they feel comfortable with it.

Mr. Ericson stated that while it is not a requirement for Master Plan approval, the applicant will need a letter stating that there is a legitimate sewer tie-in for Preliminary Plan approval.

Mr. Vowels made a motion to close the public hearing at 7:55 pm. Mr. Cardello seconded the motion, with all in favor.

Mr. Cardello made a motion to send a positive recommendation to the Zoning Board on the variance of 61.66' on the frontage requirements for the Major Subdivision Master Plan for Gerard and Christine Berthelette, Mendon Road and Middle Street, Assessor's Plat 3, Lot 286. Mr. Biliouris seconded the motion, with all in favor.

Mr. Cardello made a motion to provide waivers from the Master plan checklist requirements for the Existing Resources and Site Analysis Map and the 2-mile radius Contour Overview Map (site context map). Mr. Vowels seconded the motion, with all in favor.

Mr. Vowels made a motion to grant approval for the Major Subdivision Master Plan (October 2010, rev. November 17, 2010) for Gerard and Christine Berthelette, Mendon Road and Middle Street, Assessor's

Plat 3, Lot 286, upon condition of the granting of a 61.66' frontage variance, to allow for 38.34' of frontage in lieu of the required 100'. Roll call vote was as follows: YES: Mr. Gibbs, Mr. Biliouris, Mr. Naylor, Mr. Vowels. Mr. Cardello abstained from the vote. Motion passed with a vote of 4-0.

4. Land Development and Subdivision Regulations: Discussion of proposed amendments

Mr. Ericson stated that he is working on the proposed amendments as time allows. He would like to continue to review them with the Board as they are ready, and there should be a hearing to approve the amendments in January or February.

Mr. Biliouris and Mr. Cardello both stated that they would like to have time to review the information that was submitted to them, to give them a chance to read and study the proposed amendments before discussing them. The Chair pointed out that the Board will be taking no action at this meeting, so Mr. Ericson is welcome to give a brief overview of the information.

Mr. Ericson stated that the basic concept behind the proposed amendments stems from the 1996 change in state law (RI 45.23.20). Town regulations must follow state law. The Town can add in regulations specific to the Town, but remaining consistent with the state law. One of the proposed amendments is the establishment of a

Technical Review Committee. The Board discussed who should be on this committee, specifically whether members of the public will be included. They discussed that on occasion; there may be a member of the public with certain expertise specific to the application that may be invited to comment. The Chair stated that in general he is opposed to inviting members of the public, as it should be a group that provides professional guidance. The public will be able to comment at the public hearing.

Mr. Ericson also informed the Board that by state definition, any nonresidential Minor Subdivision/Land Development Plan is a Major Subdivision/Land Development Plan. This greatly increases the cost of preparing an application. If a waiver is required, a Minor Plan becomes a Major Subdivision/Land Development Plan. This is also required by state law and greatly increases the cost of preparing an application. In both cases the Board can grant checklist waivers.

Mr. Ericson then discussed a proposed amendment in Article 4-1 (F) Site Context map. He proposed that the radius map of 0.5 miles of the subdivision parcel would be sufficient in most cases. Mr. Cardello stated that he agrees that 2 miles is too much, but in some cases 0.5 mile would be too little. He suggested making the required area large enough to show the relationship to the nearest major road. Mr. Ericson clarified that it could be the nearest numbered route. Mr. Naylor asked if, from a legal point of view, the Board is only able to discuss the area shown on the radius map in hearing an application.

Mr. Ericson said no, the radius map is provided to reacquaint the Board with the area of Town under discussion, not to limit the area of interest.

The Board will continue to review the proposed amendments at upcoming meetings.

5. Planning Update: Review of current events

Mr. Ericson updated the Board on the \$4 million capital project upgrading the energy in all the buildings in Town (excluding Kendall Dean and Halliwell). He commended energy engineer Don Wilkinson for his brilliant adaptations in coping with problems uncovered at the high school.

The Chair commented that the mess left behind after the construction work on the two bridges is deplorable and an eyesore. He stated that the contractor needs to be told to clean it up. Mr. Bassett stated that he had emailed the Town Administrator, who responded that the contractor is not under any obligation to clean it up, since they are technically still working. The Chair stated that the Town Administrator needs to call the contractors and insist that it get cleaned up. Mr. Cardello stated that perhaps the clean-up is on the contractor's punch list, but that they should be called about it.

Mr. Cardello made a motion to adjourn at 8:50 pm. Mr. Vowels

seconded the motion, with all in favor.